

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12412 OF 2006

ORAL ORDER:

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This writ petition is filed seeking a declaration that the order passed by the 1st respondent dated 31.1.2006, thereby rejecting the application of the petitioner-Trust, for sanction of the proposed building plan in Sy.No.247, 248 & 136, Sri Hanumanji Co-operative Housing Society Limited at Bowenpally, Secunderabad, is arbitrary and illegal.

At the outset, it is to be noted that the impugned order was passed by the 1st respondent in exercise of the powers under Section 181 of the Cantonments Act, 1924 (for short "the Act"). Against the said order an efficacious alternative remedy of appeal is available under Section 274 of the Act. Without exhausting the said alternative remedy, the petitioner cannot maintain this writ petition.

However, the learned counsel for the petitioner submitted that pursuant to the impugned order dated 31.1.2006, the 1st respondent while directing the petitioner vide letter dated 8.2.2006, not to make any construction, requested the Station House Officer, Bowenpally Police Station, not to allow any unauthorized construction to avoid communal violence. It is alleged that in pursuance of the said letter of the 1st respondent, the 2nd respondent-Station House Officer, Bowenpally, has been preventing the petitioner-Trust even from performing the poojas and other activities of the Trust, in spite of the fact that they are not proceeding with any constructions.

The learned standing counsel appearing for the 1st respondent, under instructions, submitted that the 2nd respondent was requested to take necessary action only to prevent the petitioner-Trust from proceeding with unauthorized constructions, and that the poojas and day to day activities of the petitioner have never been interfered.

Since the learned Counsel for the petitioner reiterated that as on today the petitioner is not making any constructions, no further enquiry is necessary in the writ petition.

Accordingly, the statement of the learned Standing Counsel for the 1st respondent that except taking steps to prevent unauthorized constructions they never instructed the 2nd respondent to prevent day to day activities of the petitioner is placed on record, and the writ petition is disposed of with a direction to the 2nd respondent not to take any coercive steps against the petitioner-Trust

without following due process of law. So far as the order dated 31.1.2006 is concerned, it is left open to the petitioner to work out the remedy of appeal as provided under the Act. No costs.

(G. ROHINI, J.)

22nd June, 2006.

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WRIT PETITION No.12412 OF 2006

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Between:

Sree Dharma Shastha Charitable Trust,
represented by its Chairman-Sri K.R. Satish,
Sy.No.247, 248 & 236, Sre Hanumanji
Co-operative Housing Society Ltd., Opp:
Brilliant School, Chinna Thokatta, New Bowenpally,
Secunderabad. .. Petitioner.

And

Cantonment Board, Secunderabad, represented by its
Executive Officer, Court compound, S.P. Road,
Secunderabad and another. .. respondents.